

**REMARKS**

In an Office Action dated October 5, 2004, the Examiner rejected claims 1-4, 7, 8, and 10-14 under 35 U.S.C. §103(a) as being unpatentable over Yu (U.S. patent no. 6,078,943) in view of Devarakonda (U.S. patent no. 6,195,680). The Examiner rejected claim 5 under 35 U.S.C. §103(a) as being unpatentable over Yu in view of Devarakonda and further in view of Adelman et al. (U.S. patent no. 6,006,259). The Examiner rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over Yu in view of Devarakonda and further in view of Attanasio et al. (U.S. patent no. 5,918,017) and Fine (U.S. patent no. 4,894,846). The Examiner rejected claim 9 under 35 U.S.C. §103(a) as being unpatentable over Yu in view of Devarakonda and further in view of the applicants' admitted prior art. The rejections are traversed and reconsideration is hereby respectfully requested.

The Examiner rejected claims 1-4, 7, 8, and 10-14 under 35 U.S.C. §103(a) as being unpatentable over Yu in view of Devarakonda. Claim 1 has been amended to provide for grouping the multiple servers into a first and second server groups, wherein the first server group has a load level less than a load level of the second server group, assigning load to a server selected from a group of servers comprising the first server group from an initial time until expiration of a time period T, determining another group of servers comprising the group of servers that includes the first server group and further comprising the second server group, and assigning load to a server selected from the another group of servers after expiration of the time period T. These features are not taught by Yu or Devarakonda.

In rejecting claim 1, the Examiner merely cited Yu as teaching assigning load to a first server group until expiration of a time period and acknowledged that Yu does not teach grouping the multiple servers into a first server group and a second server group and assigning load to a server after time T. Therefore, nowhere does Yu teach the features of claim 1 of determining the another group of servers comprising the group of servers that includes the first server group and further comprising the second server group and assigning load to a server selected from the another group of servers after expiration of the time period T.

The Examiner contended that Devarakonda teaches grouping multiple servers into a first server group and a second server group and assigning load to a server selected from servers in said first and second server groups after expiration of said time period T (col. 2, lines 3-38 and 52-57). More particularly, in citing Devarakonda, the Examiner stated out that Devarakonda teaches assigning load to servers in a first group of servers and moving to a different group of servers as time-to-live periods expire. The Examiner then contended that claim 1 teaches assigning load to a server after expiration of a time period, and that it does not matter whether the server is from group one or group two as long as one server is assigned load after expiration of the time period.

Devarakonda teaches only a single group, or cluster, of servers (500) and a method for routing client requests among the cluster of servers. The section of Devarakonda cited by the Examiner is merely a reference to a round robin load balancing system, wherein all received client requests are directed to a single group of servers during a predetermined time period and upon expiration of the predetermined time period are directed to a next group of servers. However, a round robin distribution system, which provides for switching from a first server group to a second server group, produces load swings that result from a ramping up in load of the second server group while simultaneously ramping down in load of the first server group.

By contrast to Devarakonda, claim 1 teaches assigning load to a server selected from a group of servers comprising a first server group from an initial time until expiration of said time period T, determining another group of servers comprising the group of servers that includes the first server group and further comprising a second server group, and assigning load to a server selected from the another group of servers after expiration of said time period T. No such another group of servers or assigning to the another of servers is taught by Devarakonda. These features of claim 1 permit a system to avoid an overload of servers in a first server group while facilitating a proper distribution of load among servers of both the first and second server groups without the load swings of round robin. By permitting a balancing of loads among all servers of the first and second groups while avoiding the load swings of round robin, claim 1 permits a

use of smaller server groups, that is, fewer servers, and/or less expensive servers and thereby provides for system cost savings relative to the prior art.

Therefore, neither Yu or Devarakonda, individually or in combination, teach the features of claim 1 of assigning load to a server selected from a group of servers comprising a first server group from an initial time until expiration of said time period T, determining another group of servers comprising the group of servers that includes the first server group and further comprising a second server group, and assigning load to a server selected from the another group of servers after expiration of said time period T. Accordingly, the applicants respectfully request that claim 1 may now be passed to allowance.

Each of claims 2-4 includes limitations of assigning load to a server selected from a group of servers comprising a first server group from an initial time until expiration of said time period T, determining multiple other groups of servers comprising the group of servers that includes the first server group and further comprising another server group of multiple other servers groups, and assigning load to a server selected from a group of servers of the multiple other groups of servers after expiration of said time period T. As noted above, none of these limitations are taught by Yu or Devarakonda, individually or in combination. Accordingly, the applicants respectfully request that claims 2-4 may now be passed to allowance.

Since claims 5-14 depend upon allowable claim 4, the applicants respectfully request that claims 5-14 may now be passed to allowance.

As the applicants have overcome all substantive rejections and objections given by the Examiner and have complied with all requests properly presented by the Examiner, the applicants contend that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the applicants respectfully solicit allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter.

Respectfully submitted,

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